

GARY LOCKE
Governor



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Department of Ecology

Mr. Tom Fitzsimmons, Director
Department of Ecology
Post Office Box 47600
Olympia, Washington 98504-7600

Dear Tom:

I have today signed, with partial vetoes, Engrossed Second Substitute House Bill No. 1866, an act relating to the establishment of voluntary programs creating environmental excellence program agreements.

This bill creates the opportunity for state, local and regional governments to explore more flexible approaches to environmental and resource protection that would produce more efficient or more effective results. In an era of shrinking resources, we must be open to the potential of finding new ways to achieve our objectives through more innovative mechanisms. I am hopeful that this program will give us just such a tool.

I am troubled, however, by the debate on this bill. The resulting climate of mistrust could thoroughly undermine our efforts to make the program successful. I look to you to help reduce this prospect.

I am hereby directing the Department of Ecology to prepare guidance for implementing Engrossed Second Substitute House Bill No. 1866. The process of developing that guidance should include consultation with those affected by the environmental excellence program, including, but not limited to the environmental community, business, labor, local governments, the Department of Fish and Wildlife and the US Environmental Protection Agency. I look forward to receiving this guidance by October 1, 1997.

The guidance should clarify how the environmental excellence program will operate and how each level of government expects to fulfill its responsibilities under the law. For example, I have received a letter from the Regional Administrator of the US Environmental Protection Agency advising me that with respect to that agency's review of proposed agreements that involve federal requirements, EPA will apply the criterion of "superior environmental performance" that



it uses in its Project XL Program as a standard for approval. This should be made clear to any potential project sponsor.

Agencies should also be clear in initiating discussions with potential sponsors that Environmental Excellence Agreements should be viewed as a benefit to be extended to "good actors." Facilities that are the subject of ongoing enforcement or that have unresolved compliance issues, should not reap the benefits of new and better ways of achieving environmental goals.

The bill wisely directs that an advisory committee be established by the Department of Ecology to assess the effectiveness of the environmental excellence program. By October 31, 2001, that committee is to report to the Legislature and recommend modifications or termination of the program. Part of the value of having such an advisory body is to enable us to learn lessons from our past performance and to modify future performance accordingly. The program guidance developed through public consultation should create a mechanism for reevaluation of existing agreements soon after the completion of the advisory committee's report so that agencies can determine whether agreements warrant modification.

Another issue that has been raised in the debate on this bill is the capacity of concerned citizens, whether neighborhood groups, facility employees, or public interest organizations, to adequately evaluate environmental excellence proposals. Recently released guidance for EPA's Project XL, which the sponsors of this legislation cited repeatedly as a model for House Bill 1866, notes that EPA intends to offer technical assistance to support meaningful stakeholder involvement. Our program, too, should explore ways to help interested citizens become comfortable with technical specifics of proposed excellence agreements.

I am confident that through this process, you and your staff can help to overcome some of the fears surrounding implementation of this program. We share a commitment to strong protection of Washington's environmental quality and natural resource heritage, while recognizing the advantages that can be gained by innovation and creativity. Working in concert with the concerned public, I know we can make this program a model for the nation.

Please advise me periodically of your progress on this vital task.

Sincerely,



GARY LOCKE
Governor